



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

**COMMISSION ADJUDICATORY
DOCKET NO. 651
COMMONWEALTH OF**

**IN THE MATTER
OF
BARRY VINTON**

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Barry Vinton pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On November 13, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Vinton. The Commission has concluded its inquiry and, on December 19, 2001, found reasonable cause to believe that Vinton violated G.L. c. 268A, §19.

The Commission and Vinton now agree to the following findings of fact and conclusions of law:

Findings of Fact

1. Vinton is the police chief in the town of Plympton.
2. In March 1998, Vinton recommended to the Board of Selectmen ("BOS") that the board hire his wife, Carol, as the police department clerk at a wage \$6.75 per hour, for a maximum of 19 hours per week. The position was not posted. The BOS voted to hire Carol for the position.
3. In spring 1999, Vinton appeared before the BOS and recommended that the clerk position be funded for 25 hours per week. Vinton's budget request submitted to the BOS and the Finance Committee ("FinCom") included funding for the clerk position at 25 hours per week. The budget was subsequently approved by the BOS and the FinCom, but the clerk's position was funded at 22 hours per week. Plympton municipal employees must work at least 20 hours per week to receive benefits. The increase to 22 hours enabled Carol to receive town benefits.
4. In spring 2000, Vinton recommended to the BOS that the clerk's position be increased to 40 hours per week for fiscal year 2001. Vinton's budget request submitted to the BOS and the FinCom included a salary increase for the clerk's position but did not specify an amount of weekly hours. The budget was subsequently approved by the BOS and the FinCom, but the clerk's position was funded at 32 hours per week. Effective July 1, 2001, Carol began working 32-hour weeks.

5. From March 1998, through early March, 2000, Vinton signed payroll warrants that included his wife's salary.

Conclusions of Law

6. Section 19 of G.L. c. 268A prohibits municipal employees from participating in their official capacity in particular matters in which, to their knowledge, they or an immediate family member have a financial interest.

7. As the police chief, Vinton is a municipal employee as that term is defined in G.L. c. 268A, §1.

8. The decisions to hire Carol as the police department clerk, fund her position, increase her hours, and approve the payroll warrants enabling her to be paid, were all particular matters.

9. By making the recommendations to the BOS that Carol be hired and, subsequently, that her hours be increased, as well as submitting budget requests that would fund these increased hours, and signing payroll warrants enabling her to be paid, Vinton participated in his official capacity in these particular matters.

10. Vinton's wife is an immediate family member^{1/} as that term is defined in G.L. c. 268A, §1.

11. Vinton's wife had a financial interest in each of these particular matters as each involved her compensation.

12. Vinton knew of his wife's financial interest in these personnel decisions when he participated.

13. Therefore, by making the recommendations to the BOS that Carol be hired and that her hours be increased, as well as submitting budget requests funding her position and signing payroll warrants enabling her to be paid, Vinton participated as police chief in particular matters in which he knew his immediate family member had a financial interest, thereby violating §19 on each occasion.

Resolution

In view of the foregoing violation of G.L. c. 268A by Vinton, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Vinton:

(1) that Vinton pay to the Commission the sum of \$2,000 as a civil penalty for his course of conduct in violating G.L. c. 268A, §19:

(2) that he waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: December 27, 2001

1/"Immediate family" means the employee and his spouse, and their parents, children, brothers and sisters.